

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

BARRACK RODOS & BACINE,

Plaintiff,

v.

BALLON STOLL BADER AND NADLER, P.C.,

Defendant.

Civil Action No. 08 CV 02152(PKL)

ELECTRONICALLY FILED

**RESPONSE TO DEFENDANT'S ADDITIONAL STATEMENT
OF FACTS PURSUANT TO LOCAL RULE 56.1**

Barrack Rodos & Bacine ("BR&B") submits this response to Ballon Stoll Bader and Nadler, P.C.'s ("Ballon") additional statements of facts pursuant to Local Rule 56.1 ("Rule 56.1"). Ballon's additional statements are contained in a document styled as a "Combined Declaration and Responsive Rule 56.1 Statement." BR&B does not believe that this combined submission is appropriate under either the letter or spirit of Local Rule 56.1, which does not contemplate or authorize a party to submit such combined submissions. Ballon appears to be employing its additional statements not to rebut facts relevant to BR&B's summary judgment motion, but to assert purported facts that relate to BR&B's motion to dismiss, which is not a proper purpose for additional facts submitted under Local Rule 56.1.

Dated: June 27, 2008

Respectfully submitted,
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